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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,378	03/20/2001	Frank G. Logan III	65,096-086	3007

7590

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EXAMINER

NGUYEN BA, HOANG VU A

ART UNIT

PAPER NUMBER

2122

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/812,378

Applicant(s)

LOGAN ET AL.

Examiner

Hoang-Vu A Nguyen-Ba

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17,18,20,22-32,34 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17,18,20,22-32,34 and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to amendment dated August 16, 2004.

Response to Amendments

2. Per Applicants' request, claims 17, 31-32, 34 and 36 have been amended; claims 19, 21, 33 and 35 have been canceled. Claims 17-18, 20, 22-32, 34 and 36-39 remain pending.
3. In view of Applicants' amendments to the specification to refer to the parent application, the priority date considered for the instant application is thus February 17, 1998, which is the filing date of the parent application no. 09/024,773, now issued U.S. Patent No. 6,243,957 B1.
4. The set of formal drawings filed concurrently with the above-mentioned amendment is accepted by the Examiner.
5. The objection to claim 31 is withdrawn in view of Applicants' amendment to claim 31.
6. The rejection of claims 32-36 under 35 U.S.C. § 112, second paragraph is hereby withdrawn in view of Applicants' amendments to these claims to correct the lack of antecedent basis of the identified term.
7. The nonstatutory double patenting rejection of claims 17-39 as being unpatentable over claims 1-17 of U.S. Patent No. 6,243,857 is hereby withdrawn in view of Applicants' filing of a terminal disclaimer concurrently with that of the above-mentioned amendment.

Response to Arguments

8. Applicant's arguments filed concurrently with the above-mentioned amendment have been fully considered but they are not persuasive.

Following is the Examiner's response to Applicants' arguments.

With respect to claims 17 and 31, Applicants have essentially argued that these claims have been amended such that the set of blocks which are shown in a second color are "dependent" from the "at least one other block" and the "first set of blocks," respectively and that the amended claims now distinguish over Applicants' admitted prior art (AAPA).

In response to the above argument, the Examiner notes the following: in Figure 3, Prior Art, of '857 Patent, the rectangular block above branch 2.10 is considered to be the claimed "first set of blocks in a first color" and decision block 79 is considered to be the claimed "one other block" in 2nd color. As can be seen, the rectangular block above branch 2.10 clearly depends from the decision block 79. Therefore, the amended limitation still reads on AAPA.

With respect to claims 18, 20, 22-30, 32, 34 and 36-39, Applicants asserted that because these claims depend from allowable amended claims 17 and 31, they are also allowable.

In response, the Examiner notes that because claims 18, 20, 22-30, 32, 34 and 36-39 incorporate rejections of claims 1 and 31 and further recite features that are anticipated by AAPA as noted in the previous Office action they not in condition for allowance.

In view of the foregoing discussion, the rejection of claims 17-18, 20, 22-32, 34 and 36-39 under 35 U.S.C. § 102(b) as being anticipated by AAPA is considered still proper and thus maintained.

Claim Rejections – 35 U.S.C. § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 17-18, 20, 22-32, 34 and 36-39 are rejected under 35 U.S.C. § 102(b) as being anticipated by Applicant admitted prior art (“AAPA”), Figures 1, 2A, 2B, 3, 4A, 4B).

Claims 17 and 31

AAPA discloses at least :

a machine (see at least Figure 1 – Prior Art – items 12, 14, 16);

a computer based controller coupled to said machine and being adapted to edit, debug, and generate a continuous multi-block flowchart representing a program and to control the operations of the machine in accordance with said flowchart (see at least Figure 1 – Prior Art – item 10); and

a display connected to said computer based controller and being adapted to aid in editing and generating the flowchart, the display being adapted to display a plurality of blocks associated with the flowchart, wherein a first set of the blocks is displayed in a first color and at least one other block is displayed in a second color, the first set of blocks being dependent from the at least one other block (see at least Figure 1 – Prior Art – item 24; Figures 2A, 2B – Prior Art –; Figure 3 – Prior Art – item 24).

Claims 18 and 32

The rejection of base claims 17 and 31 is incorporated. AAPA further discloses *wherein the at least one other block corresponds to an active block during a runtime execution* (see at least Figure 3 – Prior Art – item 80).

Claims 20 and 34

The rejection of base claims 17 and 31 is incorporated. AAPA further discloses *wherein the at least one other block corresponds to an active block during a debugging process* (see at least Figure 3 – Prior Art).

Claims 22 and 36

The rejection of base claims 17 and 31 is incorporated. AAPA further discloses *wherein the at least one other block corresponds to blocks that have been modified during an editing process* (see at least Figure 3 – Prior Art).

Claims 23 and 37

The rejection of base claims 17, 31 and intervening claims 18, 32 respectively is incorporated. AAPA further discloses *wherein a third set of blocks are displayed in a third color* (see at least Figures 2A, 2B and 3 – Prior Art).

Claims 24 and 38

The rejection of base claims 17, 31; intervening claims 18, 23; and 32, 37, respectively is incorporated. AAPA further discloses *wherein the third set of blocks are dependent upon the active block* (see at least Figures 2A, 2B and 3 – Prior Art).

Claims 25 and 39

The rejection of base claims 17, 31; intervening claims 18, 23; and 32, 37, respectively is incorporated. AAPA further discloses *wherein the third set of blocks are dependent upon the active block* ((see at least Figures 2A, 2B and 3 – Prior Art).

Conclusion

11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu “Antony” Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on Tuesday-Friday, 6:45 to 16:45.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner’s supervisor, Tuan Dam can be reached at (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANTONY NGUYEN-BA
PRIMARY EXAMINER

Art Unit 2122

November 16, 2004